

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS  
COMMITTEE MEETING  
FEBRUARY 18, 2009, 4:00 P. M.  
Room 30, House Building, State Capitol Complex**

Members Present:

Rep. Ron Bigelow, Co-Chair  
Sen. Lyle W. Hillyard, Co-Chair  
Sen. Peter C. Knudson, Vice Chair  
Rep. Bradley G. Last, Vice Chair  
Sen. Gregory S. Bell  
Rep. David Clark, Speaker  
Rep. Brad L. Dee  
Rep. Kevin S. Garn  
Rep. James R. Gowans  
Sen. Scott K. Jenkins  
Sen. Patricia W. Jones  
Sen. Sheldon L. Killpack  
Rep. David Litvack  
Rep. Rebecca D. Lockhart  
Sen. Karen Mayne  
Rep. Carol Spackman Moss  
Sen. Luz Robles  
Sen. Ross I. Romero  
Rep. Jennifer M. Seelig  
Sen. Michael G. Waddoups, President

Staff Present:

Jonathan Ball, Legislative Fiscal Analyst  
Dr. Andrea Wilko, Chief Economist  
Greta Rodebush, Secretary  
Karen C. Allred, Secretary

Speakers Present:

Dr. Andrea Wilko, Chief Economist  
Kim Hood, Department of Administrative Services  
John Reidhead, Division of Finance  
Sen. Wayne L. Niederhauser  
Rep. Stephen D. Clark  
Sen. Dennis E. Stowell  
Rep. Kerry W. Gibson  
Sen. Ralph Okerlund  
Rep. Sheryl L. Allen  
Sen. Jon J. Greiner  
Rep. Eric K. Hutchings

**Note:** A copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov)

A list of visitors and a copy of handouts are filed with the committee minutes.

**1. Call to Order and Approval of Minutes**

Committee Co-Chair Bigelow called the meeting to order at 4:12 p.m.

**MOTION:** Co-Chair Hillyard moved to approve the minutes of January 30, 2009 as corrected, and December 16, 2008.

The motion passed unanimously with Sens. Killpack and Robles, and Speaker Clark absent for the vote.

**2. Approve New Revenue Estimates**

Co-Chair Bigelow entertained a motion from Co-Chair Hillyard.

**MOTION:** Co-Chair Hillyard moved to adopt the revised revenue estimates for FY 2009 and FY 2010 as indicated on page 1 of the pink (cherry) sheet titled "Ongoing Revenue Estimates -- February 2009" and dated today, February 18, 2009.

Pres. Waddoups requested that Co-Chair Hillyard read the "total" line to insure that everyone was on the same sheet. Co-Chair Hillyard read the General Fund revenue total for FY 2010 Revised, Feb. 09 -- \$1,824,063,000. He pointed out that the ongoing revenue estimates for GF/EF are down \$171 million for FY 2009 and \$235 million for FY 2010.

The motion passed unanimously with Sens. Killpack and Robles, and Speaker Clark absent for the vote.

**3. Division of Finance Internal Controls**

Kim Hood, Executive Director, Department of Administrative Services (DAS), reported on a theft of \$2.5 million within the e-Vendor Program. She indicated that measures have been put into place to insure that this will not happen again, that no private data was compromised, and that all electronic payments to state vendors remain secure. DAS expects to recover \$2.3 million.

John Reidhead, Director, Division of Finance, reported that the Division of Finance notified the Governor's Office and Legislative Leadership when the theft was discovered by a Bank of America employee in Texas. Investigators instructed the Division to keep the incident confidential so as to not jeopardize the case and the recovery of funds.

Mr. Reidhead explained that the e-Vendor Program was developed five years ago to help increase the number of electronic payments made to vendors in the state. Vendors access the website using a tax identification number. They can see payment information, download a form to request electronic payments, and provide banking information. The program was compromised when individual(s) used tax identification numbers found on the University of Utah's website to falsify a form that was processed by the Central Accounting System that directed electronic payments to a bank account in Texas.

Mr. Reidhead indicated that the invoices were valid and that the University of Utah had no knowledge of what was going on.

On August 14, 2008, the Division of Finance received a call from an employee of the Bank of America in Texas who questioned why one of the payments went into an account in the bank. The Division of Finance immediately stopped all electronic payments, directed Bank of America to freeze the account, and contacted Risk Management. Within two hours, an investigator with the Attorney General's Office was assigned to the case.

To date, the e-Vendor System has undergone careful scrutiny and is now backed up with significant verification systems. Mr. Reidhead stated that the Division over-relied on internal controls that had been in place for over five years without any incident. He recognized that the system design requires periodic security updating. He reiterated that the Division has put in place measures that will insure that this type of theft will never happen again. The Division expects to get back 90 percent of the money that left the state.

Sen. Jenkins asked if the Division pays based upon charges submitted on the e-vendor form, and if an invoice is verified in several directions. Mr. Reidhead explained that the Division does not pay based upon the e-vendor form but the invoice. In this case, invoices were legitimate and correctly processed. It was, however, the e-vendor form processed by Central Accounting that directed legitimate electronic payments to the false bank account. Mr. Reidhead stated that the Division has paid the University of Utah.

Rep. Litvack asked how the 90 percent will be recovered and where will the remaining 10 percent come from. Mr. Reidhead responded that Risk Management Insurance is available to cover the remaining 10 percent. Ms. Hood commented that there is an ongoing investigation.

Co-Chair Hillyard asked if they have located the person or persons involved. Mr. Reidhead responded that there are numerous people involved, possibly a theft ring, but the investigation is ongoing.

Co-Chair Hillyard asked if they have looked at other invoices to see if this had happened before. Mr. Reidhead clarified that the invoices are not the problem and that the Division verifies all electronic payments that go out every day to companies, vendors, and some banks.

Speaker Clark asked if they feel comfortable that this problem will not reoccur in the State of Utah. Mr. Reidhead responded that this particular problem will not happen again. Ms. Hood expressed concern about the unknown with the increase in electronic information and capability.

Co-Chair Bigelow commented that this was a problem in the vendor set-up; the vendor set-up process has been modified; and additional programs are in place. He requested the Division to provide information on the specific controls that are now built into the process. Mr. Reidhead responded that he will pass that information on to the Chairs and Jonathan Ball.

#### **4. Subcommittee Reports:**

Co-Chair Bigelow stated that the subcommittee reports are found behind the tabs in the committee binders. He encouraged the committee to study the proposed budgets that will be voted on some time in the future.

Co-Chair Hillyard suggested that anyone interested in obtaining information on specific budgets can contact the Legislative Fiscal Analysts Office. Co-Chair Bigelow added that materials for today's meeting are posted on the legislative website.

Rep. Litvack asked for clarification on the budget recommendations. Co-Chair Bigelow asked Jonathan Ball to clarify the budget information in the subcommittee reports.

Mr. Ball explained that the contents in front of the tab sets in the committee binder include: Ongoing Revenue Estimates -- Feb. 2009 (cherry colored page), Consolidated Intent Language for FY 2009 (pink); Consolidated Intent Language for FY 2010 (green); Consolidated Fee Changes Summary (lilac); and two lists for each agency, FY 2010 Ongoing General/Education Fund Reduction Priorities (white), and FY 2009/FY 2010 Building Blocks or Add Back Priorities (white).

Included behind each subcommittee tab are a motion sheet, subcommittee FY 2010 budget recommendations that include H.B. 3 and proposed subcommittee changes, intent language, fees, FY 2009 supplemental recommendations, FY 2010 reduction priorities, building blocks, add-backs, re-allocations, non-state funding changes, and other information.

Co-Chair Bigelow reiterated that the committee will not be taking any action on this information today and he encouraged the committee members to study the materials provided.

***a. Capital Facilities and Government Operations***

Sen. Wayne L. Niederhauser and Rep. Steven D. Clark, Co-Chairs, Capital Facilities and Government Operations Appropriations Subcommittee, presented the report, assisted by LFA staff Steve Allred and Rich Amon.

Sen. Niederhauser reviewed the Department budgets (page 1-5 through page 1-23). He explained the new rates that the Internal Service Fund will be charging to other departments in the State for their services for FY 2010. He pointed out the cuts made to get to the FY 2009 base budget, the appropriations approved for the Economic Incentive Restricted Account and the Land Exchange Distribution Account, and additional cuts for FY 2010, to get to the 15 percent. They found an additional \$863,000 from the Capitol Preservation Board to help relieve some of the cuts made. The subcommittee recommends bonding for \$30.8 million in FY 2010 to bring the capital improvements up to the 1.1 percent level.

Pres. Waddoups asked if the rental fees for the Capitol Grounds and Capitol Rotunda are at a maximum, or if there is a fee for every event. Sen. Niederhauser responded that these are the approved rates for each event. If they charge less they may undercut private business. Pres. Waddoups found that there are times that variable rates are charged to foster some income, and he wondered if there would be any flexibility.

He also asked about the White Chapel fees which have been lowered. Sen. Niederhauser responded that those fees were adjusted based on a market study.

Rep. Dee commented on the cuts made to the Career Service Review Board and since it is a two person board handling grievances, he anticipates that it will be a very busy place. He stated that the employees will be well worth the \$28,000.

Rep. S. Clark reported on the subcommittee's prioritization for bonding \$120 million for Capital Developments. The committee decided on seven projects to request for bonding: the Salt Lake Community College Digital Design Center; Mountainlands ATC; Ogden/Weber ATC; U of U School of Business; Schools for the Deaf and Blind; National Guard and SUU Science Building. Construction costs are down, and if the projects are "shovel ready", money will be saved by building now.

Sen. Bell asked what the ongoing funds are for Capital Facilities. Rep. S. Clark responded that they don't have ongoing funds budgeted for buildings.

Rep. Litvack asked if the amounts to design UVU and the Courthouse in Ogden are \$3 million and \$1.6 million respectively, and what the process is for prioritization. Rep. S. Clark responded that the design costs are correct. He then explained that the Board of Regents and The Building Board come up with a prioritization list which is then submitted to the subcommittee for final prioritization. Rep. Litvack asked why the State Hospital was not considered a priority. Rep. S. Clark responded that there is still ongoing discussion on the privatization of the hospital and the subcommittee thought there ought to be a better understanding of what kind of building was going to be built.

Rep. S. Clark reiterated that now is the time to bond and build projects. Sen. Neiderhauser responded that he has concerns with the Career Service Board, as did Rep. Dee. He encouraged the committee to look at their recommendations seriously.

***b. Natural Resources***

Sen. Dennis E. Stowell and Rep. Kerry W. Gibson, Co-Chairs, Natural Resources Appropriations Subcommittee, presented the report, assisted by LFA staff Ivan Djambov.

Sen. Stowell reported that it is a good time to build. The subcommittee encouraged SITLA to do some building and development and stimulate the economy. Reductions were made, for the most part, with a 15 percent cut across the board with the exception of three programs. The State has Primacy from the Federal Government with two programs and didn't want to disturb them. One of these is the Stream Alteration Program, which is a part of Water Rights. The program prepares Stream Alteration Permits. To keep it from being discontinued, the program was funded with fees. The other program with Primacy is the Meat Inspection. To preserve the Meat Inspection Program, the Pesticide Fees were increased. However, because these fees are collected once a year, in May (which is near the end of the fiscal year), it is important to implement the fee increases in FY 2009, so that the new revenue will be available for FY 2010. Rep. Gibson added that Utah's pesticide fees

were much lower than surrounding states.

Rep. Gibson reported that the third proposed fee is on the Organic Program. The users of this program asked to charge enough fees to cover costs and not eliminate the program. The fees were doubled to pay for the cost of this program.

Rep. Gibson reported that the subcommittee has requested that the Committee consider funding the Water Resource Board for water projects. This program took a large reduction and there are a wide range of projects across the state. Sen. Stowell added that all of the projects that will come from the federal bailout package will be in the clean water or drinking water areas, and they would like to see some of this money go to water projects.

The subcommittee also requested consideration in the Agriculture Loan programs. The beef, lamb, dairy, and poultry industries are facing serious problems. The subcommittee recommends funding for the Rural Rehab Loan Fund.

The subcommittee recommended that the committee consider an ongoing portion of the severance tax funding be used to mitigate the impact on those lands directly. If resources are taken off those lands, it should consider putting money back into those lands.

Co-Chair Bigelow wanted the committee to know that fees and restricted account back-fills can be used in different ways. Although some subcommittees use them internally to cover items within the subcommittee, they can be used to cover needs in other subcommittees.

Sen. Jenkins asked why they raised the golf fee \$1. In so many instances the State sets the low mark, but are on the high side in quality, and he feels they could get more. Rep. Gibson responded that the State Park does studies on how those fees should be placed and make the recommendations for those fees.

Co-Chair Bigelow commented that the Committee will scrutinize these recommendations very carefully.

***c. Economic Development and Revenue***

Sen. Ralph Okerlund and Rep. Sheryl L. Allen, Co-Chairs, Economic Development and Revenue appropriations subcommittee, presented the report, assisted by LFA staff Dr. Andrea Wilko and Dr. Thomas Young.

Sen. Okerlund reported that the subcommittee adopted a base budget as directed by the EAC. Two slight issues were discovered. The appropriations to the Advertising Budget and the Motion Picture Incentive Programs were not aligned with the General Funds appropriations to the restricted

funding. The subcommittee recommended that it be adjusted in a bill as a technical correction to the program side. The adjustment is shown in the subcommittee tables.

The subcommittee recommended that the Tourism Marketing Performance Fund sales tax earmarks remaining (\$9 million) be allocated to the restricted account.

The subcommittee prioritized the order they would like the remaining items cut (page 3-14). They heard several requests for appropriations. They are forwarded to EAC as worthy items but with no priority recommendation. If any of the items are given funding, the subcommittee recommended considering those that followed the proper procedure (Thanksgiving Point, Reach Out and Read, and Richfield Economic Development). Other non-procedure programs were: Leonardo; Citizens Council for Diplomacy; Eccles Ice Center, CEBA, Utah Defense Alliance and UBIDS. The subcommittee placed on a priority list for consideration if add-backs occur \$142,500 for the Snow College Nursing Initiative.

Rep. Lockhart asked where the additional revenue will be applied from fee increases for Electronic Payment Fees and Temporary Permit for Motor Vehicle Fees. Rep. Sheryl Allen responded that those fees will stay in the Tax Commission. Motor Vehicle Sales have gone down, yet the enforcement responsibilities are the same. The Automobile Dealers Association has recommended the fee increase so enforcement activities can be maintained. Funds would stay with the Tax Commission. Sen. Okerlund responded that it is meant to be revenue neutral.

Rep. Lockhart asked if it would be more appropriate to move the Snow College of Nursing Program appropriation to the Nursing Initiative. Rep. Allen responded that it is probably more appropriate to be in the Nursing Initiative. Sen. Okerlund responded that he agrees, but the reason that the program is in this subcommittee is that it provides services in the rural dispersed areas and the hospitals are an economic generator.

Rep. Allen reported on intent language that recommends funds for the "We Shall Remain" project line item not lapse at the close of FY2009. She expressed concern for the Tax Commission budgets under current cuts. A postal increase, which will go into effect in the spring, also affects their operation. The subcommittee is concerned about the reduction of the Manufacturers Extension Partnership, which means less federal funding for this program. The Tourism budget needs to be considered, since it is an economic engine, especially in rural areas.

Sen. Bell asked why there is such a large reduction in USTAR. Rep. Allen responded that it was back filled in the current fiscal year and they hope it will be again. In trying to reach the 15 percent, the subcommittee felt it was better to stop a program that had not yet begun. Sen. Okerlund responded that USTAR does have some one-time and non-lapsing funds that can carry some of these programs. The program could possibly do without interns and be covered by students in the classes.

Co-Chair Bigelow asked if the list on page 3-14 is the cuts recommended by the subcommittee, and if the item on page 3-15, is the recommendation for restoration if funds are available. Rep. Allen responded that was correct. Co-Chair Bigelow clarified that Snow College Nursing Program was the only restoration recommendation. Rep. Allen responded that the subcommittee did not make a priority list for restoration.

Speaker Clark asked how the determinations were made on the reductions priority list. It appears that USTAR has been cut disproportionately. Sen. Okerlund responded that many of these departments have pass through federal money. Rep. Allen responded that the subcommittee made appropriate recommendations for reduction.

Rep. Allen commented that economic development is very important to the State and hopes the committee will consider their recommendations.

***d. Executive Offices and Criminal Justice***

Sen. Jon J. Greiner and Rep. Eric K. Hutchings, Co-Chairs, Executive Offices and Criminal Justice Appropriations Subcommittee, presented the report, assisted by LFA staff Gary Ricks and Gary Syphus.

Rep. Hutchings gave an overview of the subcommittee's FY 2009 and FY 2010 Budget Recommendations, including fees, intent language, supplementals, add-backs, reallocations, and other funding changes. He commented that the subcommittee is unique in that it covers so many agencies. Budgets were prepared with a 15 percent across the board cut, taking into account agency programs that could be held harmless.

Rep. Hutchings highlighted some FY 2009 line items that will require an appropriation. Some expenses were incurred in the St. George Airport process that have been accessed to the Treasurer's Office. The Attorney General has a final payment due for the David C. Lawsuit and an expense incurred for the St. George Airport. The Department of Corrections has a \$1 million shortfall in FY 2009 for Clinical Services which provides medical care for inmates. Courts has creatively resolved some of their budget concerns through negotiations with city courthouses and restricted account changes. The Department of Public Safety will use a restricted account and transfer to resolve a funding shortfall in programs and operations.

Rep. Hutchings also commented on the issue of nonlapsing authority. He indicated that the subcommittee had identified some critical elements within the agencies that warrant nonlapsing authority through intent language as found on page 4-19.

Rep. Hutchings explained the FY 2010 reduction priority list on page 4-22. The last four items on the list are of particular concern to the subcommittee. They are the loss of 6.5 FTEs for the Board of Pardons and Parole, Gunnison Housing Units Closures, and the Private Parole Violator Center. With the 15 percent budget cut, the Board of Pardons and Parole indicated that they would have to release 400 inmates by July, 2009. In order to keep as much lock up space as possible, the Department of Corrections is recommending cutting out community based programs. In addition, the Courts main line item reduction will require employee furloughs and closing the courts to the public one day a week. The Attorney General's Office will see cuts primarily in personnel. And finally, to address Department of Public Safety staffing needs, there is an additional \$1 million in the Concealed Carry Restricted Account that could be used.

Rep. Hutchings stated that on page 4-23 are the "must have" items that have to be funded,

including the Salt Lake Valley Detention Facility Contracts with the Division of Juvenile Justice Services. There is also a list of fund reallocations on page 4-24 that the Governor and Courts are asking for more flexibility in managing budget cuts.

Sen. Greiner added that some of these items are based on bills that will increase fees, especially in the Courts.

Sen. Jones asked if fee increases to the Courts would be used to mitigate some of their short falls. Sen. Greiner confirmed that fee increases and legislation are intended to provide revenue to Courts.

Rep. Garn asked if fees were increased and then reallocated within the budget. Rep. Hutchings responded that the budget cuts do not reflect the fee increases.

Rep. Garn mentioned that some reductions seem deeper than the across the board 15 percent cuts. Rep. Hutchings indicated that the across the board budget cuts are fairly close to 15 percent; overall, the entire budget was cut by 15 percent. He clarified that the list does not include H.B. 3 cuts. As far as the prioritization is concerned, if any money were to come back, the subcommittee recommends working from the bottom of the list up. Rep. Hutchings noted that this is a cut list and not a back-fill list.

Rep. Dee asked about the closure of the Gunnison Housing Unit. With the expenditure for the Private Parole Violator Center, he understood that capacity wouldn't be reached until 2011. Rep. Hutchings stated that would significantly increase the time frame.

Sen. Mayne asked if Fleet had been considered. It is a very expensive program and needs to be considered. Rep. Hutchings responded that the subcommittee had addressed this issue in significant detail last year, so it wasn't discussed much this year. It may be a good place to look for additional cuts.

Co-Chair Hillyard asked if the list of "must haves" on page 4-23 are additions that should be added back into the budget. Rep. Hutchings responded affirmatively. Co-Chair Hillyard asked if the court fees increase in early May, how much of a benefit would that be for Courts. Rep. Hutchings responded that the subcommittee did not make this a part of their budget discussions. He anticipates that there will be some kind of furlough in Courts and the fees will help mitigate that.

Rep. Litvack asked if the FY 2010 add-back priorities on page 4-23 have a higher priority than the back fills on page 4-22. Rep. Hutchings responded yes, the add-back items have to be paid.

Speaker Clark stated that he would like to have a discussion with the chairs about each of the items pertaining to the St. George Airport off line. He has some deep concerns.

Co-Chair Bigelow referred to the subcommittee list of available funds on page 4-25 that could be used in a variety of ways. Rep. Hutchings mentioned the additional \$1 million dollars from the

Concealed Carry Weapons Restricted Fund within the Department of Public Safety that should be added to the list.

Sen. Killpack commented that departments requesting fee increases need to have realistic expectations. To think that fee increases could bring them back to even while some areas in state government take deep cuts, is unrealistic.

Co-Chair Bigelow restated that all of the materials that have been presented are found on the legislative website under the Executive Appropriations Committee meeting.

Rep. Hutchings offered some concluding remarks. He reiterated that the Board of Pardons and Parole and Corrections are top priorities; however, other agencies have critical issues and deserve consideration as well.

5. **Other Committee Business**

Co-Chair Bigelow entertained a motion from Co-Chair Hillyard.

**MOTION:** Co-Chair Hillyard moved to adjourn.

The motion passed unanimously with Pres. Waddoups and Sens. Knudson and Romero absent for the vote.

The meeting was adjourned at 6:26 p.m.

Minutes reported by Karen C. Allred and Greta Rodebush, Committee Secretary.

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Sen. Lyle W. Hillyard, Co-Chair

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Rep. Ron Bigelow, Co-Chair